Material and regulatory dimension of the system and international law (SI-DI)

Dimensión material y normativa del sistema y el derecho internacional (SI-DI)

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Abstract

This study analyzes the material and normative dimensions of the International System, International Law, and International Organizations through bibliographic and documentary research. The objective focuses on identifying the origin and evolution, characteristics, elements, sources, concepts, and basic principles of international law. It also addresses international law from its beginnings, with the regulation of borders and peace treaties. It also examines the role of States with their sovereignty, consent, and will. It also examines international organizations, their elements, sources, and principles that govern them. It also arrives at a description of various geopolitical problems, such as the tensions of cultural diversity, war conflict, displacement and migration, and the role of legal organizations.

Keywords: International System, Public International Law, Private International Law, International Organizations.

Resumen

Este estudio tiene por objeto un análisis sobre la dimensión material y normativa del Sistema Internacional, el Derecho Internacional y las Organizaciones Internacionales, a través de la investigación bibliográfica-documental. El objetivo se centra en identificar el origen y evolución, sus características, elementos, fuentes, conceptos y principios básicos del derecho internacional. También aborda el derecho internacional, desde sus inicios, con la regulación de fronteras, los tratados de paz. El papel de los Estado con su soberanía, consentimiento y voluntad. Las organizaciones internacionales, elementos, fuentes y principios que les rigen, y arriba a la descripción de los diferentes problemas geopolíticos, como las tensiones de la diversidad cultural, conflicto de guerra, desplazamiento y migración, y el papel de los organismos en el ámbito jurídico.

Palabras clave: Sistema Internacional, Derecho Internacional Público, Derecho Internacional Privado, Organizaciones internacionales.

Introducción

Regarding the International System (IS), its material and normative dimensions are analyzed, including a socio-historical examination of the system based on globalization, highlighting societal fragmentation due to economic and political inequalities and the hegemony of major powers within organizations.

Concerning International Law, its origins are traced from border regulation, peace treaties, and the emergence of the sovereign state—distinct from Hobbes' social contract state—along with pivotal moments driven by social changes, cultural diversity tensions, and the pillars of peace, contrasted with state sovereignty and the structure of various international organizations. The study also explores the purpose of interstate cooperation across different fields.

It further examines state sovereignty as the basis for consent or voluntarism in the creation and application of international norms, including ius cogens, and the restriction of competences under the principle of incompetence. This allows for the identification of neutrality and non-in-

tervention as defining features, alongside the absence of normative hierarchy, their specificity, and validity across time.

The study distinguishes the influence of International Law on human rights protection through various Declarations, particularly the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights, ratified by member states.

On normative development, it outlines the foundational principles of International Law, such as: The primacy of international law, whose precepts are incorporated into domestic law. The creation of supranational or community law, which has imposed limitations on state sovereignty. International Human Rights Law, whose norms hold higher authority through constitutional provisions and are interpreted in accordance with the Universal Declaration of Human Rights and ratified treaties.

Regarding norm creation, the study investigates the development of norms under Public and Private International Law, including substantive sources (content and factors to be considered). As for formal sources, it examines the methods and processes of norm creation based on the Statute of the International Court of Justice, observing their application through conventions, international custom, general principles, judicial decisions, and scholarly works—without prejudice to ex aequo et bono (fair and equitable) rulings. Jurisprudence is treated as a means of interpretation and norm determination but not creation, inherently embodying erga omnes obligations and ius cogens as norms superior to conventional ones.

A comparative analysis of international and domestic law is also conducted, addressing norm creation, structure, rights holders, beneficiaries, and scope of application. This considers voluntarist and objectivist doctrines, illustrating the role of factual circumstances and the coexistence of states with diverse legal systems under principles of equality, territoriality, personality of laws, vested rights, and public order.

Finally, the interpretation of International Law is analyzed through its historical background, from natural law problem-solving to the modern state's governance of legal rights and duties, culminating in today's legal framework of principles and rules. This system is characterized by the absence of a legislative body, compulsory jurisdiction, and a punitive organ, depending instead on the types of International Law organizations.

The legal perspective of international organizations is also reviewed, based on their foundational elements (treaties, custom, and doctrine); international judicial bodies such as the International Court of Justice, which resolves disputes among UN member states and issues advisory opinions; and the International Criminal Court, which adjudicates war crimes, despite difficulties in enforcing its judgments. The study also examines the establishment, components, and bodies of the UN and OAS as the most significant organizations, serving as forums for debate among nations and resolving disputes through diplomacy to prevent war. These organizations include specialized agencies such as the ILO in labor matters; the World Bank and IMF in economic financing; UNESCO in education; WHO in health control and disease prevention; and the WTO in promoting fair and equitable international trade. The OAS is included as a regional organization with diplomatic and financial capabilities, committed to human rights and democratic

principles. The CAN, a regional body within the Andean Community, is addressed regarding its role in common tariff regulation.

The analysis concludes with an examination of the geopolitical situation, particularly war conflicts that endanger nations, causing displacement, large-scale suffering, and military and civilian casualties. Consequently, the International System (IS) and International Law (IL) compile data to develop archetypal models that enhance understanding of this reality, based on principles of coexistence and cooperation within a universal system. This approach is reinforced by the provisions of the ICJ Statute and the Court's jurisprudence, which adopts a consensus-based interpretation by recognizing the rules of International Law.

I. The International System

The *International System* is defined as a set of relationships among a specific number of actors - namely States, International Organizations (IOs), and transnational forces - which develop, organize, and submit to certain regulations. Consequently, Public International Law (PIL) constitutes the regulatory framework proper to this international system (Merle, 1991). Therefore, the relationship between this system and its environment or material context must not be overlooked.

Structure of the international system: Its material dimension

Thus, the structure of the international system in its material dimension, according to Jiménez (2010), is constituted by Public International Law (PIL), which forms part of the global or universal international system. Therefore, its study should not be limited to the formal or normative aspect, but must also include the material and socio-historical dimension of the system, thereby enabling the understanding of its legal institutions based on the social reality of each historical stage.

Nor should we forget that law is both a product of social life and a regulatory factor of that same social life. Consequently, the study of any legal system - including international law as a social product that regulates the international system - implies examining the combination of norms with existing social reality (Jiménez, 2010).

In the contemporary international system, it is important to differentiate between the socio-historical or material dimension and the formal or normative dimension, considered as two sides of the same coin, yet they must be understood as a unified whole.

In this context, the elements of the material dimension of International Society, at its most representative level, operate on a planetary scale, grounded in globalization and the economic interdependence created by the worldwide integration of markets. This phenomenon results in trade liberalization and increased commercial transactions, capital flows, and global communications, including the worldwide dissemination of information. In essence, contemporary International Society (IS) is planetary in scope, complex, heterogeneous, fragmented, poorly integrated, and interdependent.

The planetary and universal nature of International Society is further evidenced by its principal

material elements: the major common problems that afflict it on a global scale. These include organized crime, international terrorism, environmental degradation, economic crises, widespread poverty in many countries, mass migration, and armed conflicts. Similarly, the globalization of communications, technological advancements such as interconnected stock markets, and the rapid growth of social media and internet platforms have played a significant role in triggering and multiplying large-scale uprisings and popular revolts, as seen in the Arab world in 2011, leading to the collapse of autocratic regimes.

This complexity of International Society (IS) stems from the array of unresolved diverse problems. On the political front, there was the disintegration of the Socialist Bloc of the Union of Soviet Socialist Republics (USSR), which broke apart into twelve independent republics, formally marking the dissolution of the Soviet Union (Barbe, 2007).

Other aspects include the fragmentation of International Society due to economic and political inequalities, nationalist movements, and the diminishing role of the State within the system caused by globalization and the participation of other transnational actors or forces. This persists despite the increasing number of universal and regional international organizations fostering interstate cooperation in economic, social, and technical fields, while simultaneously facing the imposition of economic, political, and cultural differences within the system's framework.

Structure of the international system: Its normative dimension

From a legal perspective, the hegemony of major powers is evident in their prominent role in the norm-creating and norm-changing processes, particularly in specialized domains such as Space Law, encompassing both customary and conventional norms, as well as in the privileged position they hold within International Organizations (IOs).

At the normative level, the concept of "interested States" participating in the creation or modification of rules - contributing to the formation of specific practices influenced by geographical, economic or technological factors - determines normative processes. Conversely, the requirement of sufficient practice as the material element of international custom applies only to these interested States (Sorensen, 1960-III).

In this context, conventional normative hegemony becomes apparent through the failure of former socialist States and developing countries to incorporate into the Law of Treaties (specifically Article 52) provisions prohibiting and invalidating treaties obtained through threat or use of force, or through any other form of political, economic or military pressure exerted by more powerful States or groups of States (Barile, 1978).

Within IOs, this hegemony manifests through the privileged position of major powers. For instance, in the UN system, the veto power (UN Charter, 1948, Art. 27.3) granted to the five permanent Security Council members (United States, France, United Kingdom, China and Russia) prevents the adoption of any resolution opposed by any of these members, along with veto rights over any amendments to the UN Charter (Arts. 108 and 109.2) in the General Assembly.

By contrast, in the European Union (EU), hegemony appears through the allocation of representatives in the European Parliament (EP) per Member State, and through the system of weigh-

ted voting when the Council adopts decisions by qualified majority - where larger States hold more representatives and votes than medium-sized and smaller States.

Birth, evolution and functions of the international legal order

International Law (IL), also known as Law of Nations (ius gentium), traces its origins to the border regulation treaty between Mesopotamia and Umma (3100 BC), with another antecedent being the 1648 Peace of Westphalia that ended the Thirty Years' War. However, some scholars argue it truly emerged during the 16th and 17th centuries in Modern Age Europe, with the rise of the sovereign modern state, which became a state of nature among nations (Hobbesian theory), contrary to the social contract concept underlying such community (Del Arecal, 1994)

Thus, during the 19th and 20th centuries, international law emerged through three defining periods: the post-Second World War era, the post-Cold War era, and the Postcolonial era, each characterized by the pursuit of social, political, and cultural transformations along with their diverse phenomena and consequences. This process generated tensions including the weakening of state sovereignty, cultural diversity challenges, and situational risks, while being grounded in the foundational pillars of peace, the development of human rights frameworks and interventions - ultimately shaping international law as a liberal-pluralist welfare-oriented legal system (Tourme, 2013).

Beginning in the 19th century, international treaties became primary sources of international law through codification efforts, leading to the proliferation of treaties and legal manuals that standardized and harmonized this body of law.

Among its core formal characteristics, International Law remains fundamentally inter-state in nature, anchored in the principle of *sovereignty and the individual distribution of political power among nations*. This persists despite the development of institutional frameworks and organizational structures through numerous International Organizations (IOs) designed to facilitate and manage multilateral cooperation across diverse domains. When examined against the socio-historical realities of the contemporary world, this creates one of the central tensions in today's international legal order - the inherent contradiction between preserving state sovereignty/independence and the imperative for peaceful interstate cooperation (Chaumont, 1970 cited in Jiménez 2010).

Functions of the international legal order

In this context, state sovereignty as a constitutional principle of International Law exhibits two fundamental characteristics of this legal system: its voluntarism and relativism. This means the extraordinary relevance of sovereign state consent in both the creation and application of international norms within an eminently decentralized legal framework (Carrillo, 1996). These norms are interpreted by the International Court of Justice through a voluntarist conception of the norm-creation process, where states' declarations accepting compulsory jurisdiction under International Law so severely restrict their competence that it nearly converts into a principle of their own incompetence, as established in the Judgment of December 4, 1998, in the Fisheries Jurisdiction Case (Spain v. Canada).

In this case, the Court had to determine whether to prioritize the applicable law allegedly violated - considering Canada's acceptance of compulsory jurisdiction - or to base its decision on the declaration's terms and the dispute's scope under Canada's reservation, ultimately choosing to respect the voluntary nature of the Court's jurisdiction and adhere to the consent expressed in the state's declaration.

Within this framework, the Court exercised its power under Article 36.6 of its Statute regarding the acceptance of reservations that exclude certain disputes from its consideration, whereby the state itself defines and limits the Court's jurisdiction. The Court must then apply International Law principles and norms, but only regarding matters not excluded from its competence.

Consequently, this voluntarism and relativism stem partly from International Law's distinction between general customary norms and the persistent objector doctrine, which in principle safeguards the position of states that expressly, unequivocally and consistently object to an emerging custom before its formal crystallization.

In the sphere of norm application, the State's protagonism manifests through self-help measures including retorsion, reprisals or countermeasures, whereby the State itself determines the legal assessment in a specific situation - a State that exists within an institutionalization process due to pressure from International Organizations (IOs), which impose limits on sovereign States' unilateral and discretionary actions regarding both norms and the scope of their obligations, as well as the condition of using decentralized norm application procedures at States' discretion (Jiménez, 2010).

In this context, the aforementioned precedents formed the basis for upholding justice and respecting the obligations arising from the sources of international law for better coexistence among nations.

Characteristics of International Law

International law is characterized by the *principle of neutrality* or tolerance, authorizing and guaranteeing pluralism among political regimes. This is why sovereignty is grounded in the principle of non-intervention in the internal affairs of states.

At this point, it is essential to define: "*The State is a politically and legally organized society, with sufficient authority to impose a legal order within its own territory and to assert its legal personality in the international arena*" (Younes, 2014).

It can be concluded that international law, as understood today, did not exist in antiquity or the Middle Ages but rather emerged as a product of Christian civilization during the latter stages of the medieval period, as noted by Oppenheim (Monroy, 1995).

Here, it is worth recalling Hart (2012, p. 124), who defines "*international law as a set of separate primary rules of obligation, not unified in such a manner*" referring to customary rules governed by certain principles that create mutual obligations among states.

As a legal system, international law is not a random compilation of norms. Rather, norms may differ in hierarchy, formulation (ranging from general to specific), and temporal validity (applying

to earlier or later periods) (Jiménez, 2010).

Regarding the relationship between international law and domestic law, after World War II, a movement emerged to extend the protection of human rights to the international legal sphere. This began with the *American Declaration of the Rights and Duties of Man*, signed in Bogotá in May 1948, followed by the *Universal Declaration of Human Rights*, adopted in Paris on December 10, 1948 (Fix, 1992).

The emergence of these two foundational instruments gave rise to numerous international human rights conventions and treaties, including: the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights (December 1966), and the American Convention on Human Rights signed in San José, Costa Rica (November 1969). These instruments entered into force following ratification by signatory states, particularly Latin American nations that had overcome military dictatorships and restored democratic constitutional order.

This normative development of international law has progressed along three principal axes: (a) Recognition of the primacy of general international law. (b) Creation of community or supranational law. (c) International human rights law.

Regarding the primacy of international law, it must be acknowledged that recent decades have seen the incorporation of treaty norms into domestic legal systems, generating conflicts between international provisions and constitutional-level domestic norms - demonstrating states' increasing recognition of the supremacy of certain international legal standards.

Concerning community or supranational norms, which have imposed limitations on state sovereignty, these are most clearly evidenced in supranational legal frameworks known as "community law" that occupy an intermediate position between domestic and international law. As for human rights law, while its recognition as higher-ranking norms is relatively recent, it has expanded significantly in recent years through explicit constitutional provisions mandating that the interpretation of human rights norms must conform to both the 1948 Universal Declaration of Human Rights and other ratified treaties and agreements (Fix, 1992).

II. Sources of International Law

International law is generally defined as the body of norms regulating relations between states in both conflict and cooperation, aiming to safeguard peaceful coexistence, according to Korovin in (Monroy, 1995).

For various scholars, the sources of international law determine the origin or potential origin of legal norms, divided into material and formal sources. Material sources encompass the substantive content of legal norms, examining how norms are developed by considering sociological, economic, psychological, and cultural factors, which are then formalized as sources of international law. Formal sources, on the other hand, refer to the methods and processes of norm creation as outlined in Article 38 of the Statute of the International Court of Justice.

Within private international law, two groups of sources can be identified: national sources, which pertain to the legal system of a single nation, including its domestic laws, jurisprudence, and

customs; and international sources, which derive from the international community, such as treaties and conventions. However, a hybrid application of national and international norms may occur.

Regarding their characteristics: private international law is inherently national in character, as each country establishes its own norms and approaches to international law; it is positive in nature, as it is codified in the legal texts of individual nations and in bilateral agreements between states.

In contrast, public international law is founded on the principle that relations between nations should be mutually beneficial rather than conflict-driven, governed by voluntary treaties to which signatory states must adhere regardless of their governing authorities.

Hierarchy of Sources in International Law

In this regard, the Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law, subject to the provisions of Article 59. This provision shall not prejudice the power of the Court to decide a case ex aequo et bono, if the parties agree thereto (ICJ Statute of the International Court of Justice).

For better understanding, it should be noted that the sources of international law do not establish a hierarchy among them, which include: *Jurisprudence* as a form of legal interpretation by courts when determining a norm, though it does not create binding norms but rather serves as a subsidiary means; the *doctrine of publicists*, experts in public law, whose interpretations may also be considered auxiliary means; *analogy and equity* - the former arising from the absence of legal norms for a specific case, aiming to produce fairer decisions in conflicts, while equity applies when no legal standard adequately covers the particular case; *erga omnes* obligations, which apply to all states with the purpose of preserving fundamental international values regardless of their acceptance; and *ius cogens*, a set of peremptory norms that override the autonomy of will, constituting superior norms that prevail over conventional ones (Homa - Institute for Human Rights and Business, 2020).

Validity Scope of Legal Norms

Pursuant to Article 24(1) of the Vienna Convention on the Law of Treaties (VCLT), international treaties enter into force when the contracting states have agreed upon it; otherwise, they become effective when all states have ratified them. In free trade agreements, the treaty may enter into force on different successive dates. Thus, once in force, the treaty binds states and must be performed in good faith - according to the principle of *pacta sunt servanda* - with no contracting state being permitted to invoke provisions of its internal law as justification for its failure to comply with the treaty.

Furthermore, regarding the spatial validity of treaties under Article 29 of the VCLT, their scope extends to the entire territory of the state, including maritime, terrestrial, and aerial spaces where the signatory states exercise their sovereign power. Consequently, any alteration of a state's boundaries automatically modifies the territorial scope of the treaty's application.

Notwithstanding the above, contracting states may restrict the treaty's application to specific parts of their territory, as seen in treaties establishing free trade zones. Additionally, the temporal validity may be determined under Article 28 of the VCLT, whereby treaties generally apply prospectively from their entry into force, unless the parties agree otherwise (Córdova, 2008).

III. What are and what are the fundamental concepts of International Law

International law doctrine has established several core principles: *State Sovereignty*, as states are sovereign entities that cannot be subjected to external conditions; *Equality of States*, meaning all states possess equal rights and obligations; *Good Faith*, requiring states to act honestly and sincerely in mutual relations; *Pacta Sunt Servanda*, the principle mandating compliance with international treaties and agreements; *Non-Intervention*, prohibiting states from interfering in another state's internal affairs; *Peaceful Dispute Resolution*, obligating states to settle disputes through peaceful means; and *Prohibition of Threat or Use of Force*, banning the threat or use of force in international relations.

The *historical foundations* of public international law trace back to Ancient Greece and the Roman Empire, where many legal provisions originated. However, this legal field truly developed in 13th-century France with the introduction of the principle of state extraterritoriality.

In Latin America, codification has been a continuous legal endeavor undertaken by states through various forms, primarily via specialized conferences. The Inter-American Specialized Conferences on Private International Law (CIDIP) have been instrumental in this process, leading to landmark treaties such as the 1889 Montevideo Treaty and the 1928 Bustamante Code, which established the foundation for private international law in the hemisphere.

Hence, for the consolidation of Latin American public international law, two criteria were adopted: (a) With a global approach, consisting of a body of norms to cover all the regulations of this discipline. (b) It envisaged a gradual and progressive process for the formulation of international instruments on particular legal issues, which sought to establish a single code of private international law, which was not approved by the States, so the treatment mechanisms were regulated by the CIDIP, which we know today as the Charter of the OAS (Organization of American States 1940), in which it describes the Specialized Conferences as intergovernmental meetings to deal with special technical matters or to develop certain aspects of international cooperation.

In other words, it can be said that international law deals with the resolution of international jurisdictional conflicts, conflicts of international laws, international procedural cooperation, and the legal status of foreigners, that is, it acts in the sphere where there are private interests between private parties, which is called International Civil Law. However, its intervention, far from resolving the dispute between private parties, rather determines which legal order between the

two involved countries prevails, so its role is more normativist. Nevertheless, due to globalization, new studies of these relations are generated, thus adopting a substantialist position.

Principles of Private International Law

Among the principles of private international law, we find: "*Locus regit actum*" (The place governs the act): This means that actions will be legal or not depending on where they are performed. "*Lex loci rei sitae*" (The law of the place where the thing is situated): This indicates that property transfers will be governed by the law of the location where the assets are physically located. "*Mobilia sequuntur personam*" (Movables follow the person): This implies that movable property owned by a person is subject to the law governing that person. "Lex fori" (The law of the forum): This means that, in case of conflict, the law of the judge's jurisdiction (the applicable state) will be applied.

I. Branches of International Law and Universal International Law

International law is divided into two main branches: *public international law*, which comprises the set of principles governing legal relations between states; and *private international law*, which regulates relations between individuals in the international context.

Public international law has been defined in various ways by legal scholars. As Monroy (1995, p. 13) states, "Public international law is the branch of public law that examines relations between states and between these and other subjects of international law, as well as the organization and functioning of the international community." In other words, the law of nations or public international law primarily concerns itself with "*regulating relations between states, or more accurately, relations between subjects of international law*" (Rousseau, 1966, p. 1).

It should be noted that in public international law, international legal norms are created by states through treaties or conventions. These norms are addressed to states and other subjects of international law and govern their conduct.

Private international law, on the other hand, is the branch of law that deals with international legal matters distinct from inter-state relations. It can be described as the instrument that regulates relations between societies, facilitating the movement of people and the exchange of goods and services, while promoting integration and combating illicit activities.

Classification comparison: international vs. domestic law and their regulation

To address the distinction between domestic law and international law, the following must be identified: (a) Who creates the norms and how, including the structure of international law; (b) The subjects who benefit from or are bound by these legal provisions; and (c) The scope of application of these rights (domestic and public international). Thus, it can be stated that:

1) On the *Creation of Norms* in Domestic Law and International Law. In *domestic law*, norms are created by a central legislative body empowered to enact laws, which apply within the borders and territory of each State - meaning they originate from the will of a single State. In contrast, *international law* is created through the collaboration of two or more States, with norms that transcend borders as they regulate mutual relations between these States.

2) Regarding *rights-holders and obligated subjects*. In domestic law, the legal system consists of a body of legal norms governing national territory and applying to individuals (natural and/or legal persons) whether nationals or foreigners, with mandatory compliance including state-owned enterprises - meaning each State has its own legal system. Conversely, in *international law*, legal norms regulate relations between States and serve the international community/society, where subjects include not only States but other entities like organizations. It represents a system of subordination (domestic) versus coordination (*international law*).

3) Regarding *the subjects of public international law*, these include: *Sovereign States:* Those recognized by their peers and the international community. *International Organizations*, including mediation and treaty-based bodies such as: The United Nations (UN), The International Labour Organization (ILO), The Organization of American States (OAS). The European Union (EU). *Belligerent Communities:* Such as national liberation movements, provided they are recognized as political actors rather than criminal entities. *Individuals (Natural Persons):* Recognized as subjects of international law with specific rights and obligations.

In this context regarding the origin of domestic and international law, it is grounded in two doctrines: *the voluntarist doctrine and the objectivist doctrine*. The first holds that in domestic law (legal rules), norms are products of human will, while international law originates from state consent. The objectivist doctrine maintains that the origin of norms or the legal system is governed by a fundamental norm from which all legal rules derive, according to Kelsen as cited in (Rousseau, 1966).

Table 1

Classification of Public and Private International Law

Public International Law	Private International Law
Universal y regional: Universal se aplica en todo el mundo ONU y *Regional en la región OEA*.	*By approach* *National:* regulates international private relations of a specific country. *Uniform:* harmonizes the rules of private international law among different countries.
Natural and Positive Law: Based on the nature of norms and legal research.	*By Sector:* Applicable Law, International Judicial Jurisdiction, Recognition and Enforcement of Foreign Judgments.
Theoretical and Practical Law: Classified according to the nature of legal norms and research.	*By Source:* Law, Custom, General Principles of Law, Jurisprudence, Doctrine.
General and Particular Law: Classified according to the binding nature of legal norms.	*Autonomous Private International Law*, Conventional Private International Law, Institutional Private International Law and Transnational Private International Law.

Note: Self-prepared.

Table 2

Divisions of international law and domestic law

Public International Law Division	Private International Law Division
International Criminal Law International Administrative Law International Constitutional Law International Human Rights Law International Humanitarian Law International Economic Law International Environmental Law International Tax Law Transnational Tax Law	Applicable Law and Enforcement Procedural Law Family Law Commercial Law Domestic Law (Objective and Subjective) 1.1 Public Law: Constitutional Law, Administrative Law, Criminal Law, Financial Law, Public International Law, Tax Law, Procedural Law, Labor Law, Immigration Law, Environmental Law. 1.2 Private Law: Civil Law, Commercial Law, Corporate Law, Bankruptcy Law, Private International Law. 1.3 Social Law: Social Law (Social Security) and Economic Law (Financial Law, Popular and Solidarity Economy).

Note: Self-prepared.

Domestic Public Law governs the relations between the State and its citizens, while Private Law regulates the interests of citizens in private matters. These legal domains operate under the axiom: "In public law, only what is expressly authorized is permitted; in private law, whatever is not expressly prohibited is allowed.

II. The relationship between international law and domestic legal systems

Regarding international law and domestic law, we can state that in Ecuador, as in all countries, there does not exist a single body of positive law to resolve conflicts of laws. Meanwhile, to find the norms of private law, one must refer to the Ecuadorian Constitution, codes and laws, and the treaties and conventions signed and ratified by Ecuador, such as the 1928 Pan-American Convention that approved the Sánchez de Bustamante Code, which we have previously referenced.

Among the fundamental concepts, it should be noted that there exists a de facto factor that determines the existence of Private International Law, which is the coexistence of the State with diverse legislations. Its legal foundation is the community of nations, and its degree of development will determine the progress of PIL. Therefore, (Larrea, 2009) identifies the following as principles:

Equality, enshrined in the Ecuadorian Constitution, equalizes rights between Ecuadorians and foreigners in civil rights, labor activities, and commerce. Reciprocity, which arises from a sovereign act of the State, is unconditional and independent of the conduct of other States toward Ecuadorians.

Territoriality of laws is contemplated in the Ecuadorian Civil Code, in the provision that "the law

binds all inhabitants of the Republic, including foreigners, and ignorance thereof excuses no one."

Personality of norms affecting the status and capacity of persons determines which personal law should govern civil status and individual capacity, an issue not fully resolved in the Sánchez de Bustamante Code, but addressed through the preferential nationality rule established in the Ecuadorian Civil Code.

Respect for acquired rights, a principle enshrined in the 1967 Constitution, stipulates that nationality once acquired cannot be lost due to subsequent laws with different requirements. Even with potential constitutional amendments, respect for acquired rights is also guaranteed in the Ecuadorian Civil Code.

Public order constitutes a fundamental principle of domestic law, governed by constitutional provisions and secondary legislation regulating public law (Larrea, 2009).

III. Application and Interpretation of International Law

Later, in the 18th century, international law sought to interpret and understand the international problems of the time, leading to the development of International Society and International Law or natural law (Rodríguez, 2019), with a global interpretation of international relations. This marked the beginning of a political, economic, and social transformation, consolidating the modern State in Europe, whose purpose was to govern the legal rights and duties of States, considered the subjects of international law, turning the State into a political community of absolute power that undermined the International Community.

Today, international law (IL) is a legal system of principles and rules that take effect in relation to other principles and rules and must be interpreted as a whole. Thus, IL is not a mere compilation of norms, but rather there are relationships between them, where norms of superior and inferior rank or general and specific norms coexist within a unitary and sufficiently coherent framework (ILC Report, 2006).

Hence the concept "International law is a legal system." Its rules and principles (its norms) take effect in relation to other norms and principles and must be interpreted within their context (Hart, 2012).

Organization in Public International Law (PIL)

The entities of Public International Law (PIL) are decentralized, dynamic, and minimally coercive bodies, with relative international legal obligations that may be negotiated. According to Novak & García (2001), they are characterized by: (a) The absence of a centralized legislative body for creating legal norms, as rules are established through treaties. (b) The absence of a compulsory judicial organ, meaning there is no tribunal to which States are inherently subject, as submission to jurisdiction is voluntary in case of disputes; and, (c) The absence of an enforcement body, that is, there is no organ empowered to impose sanctions for non-compliance with treaties.

Among the *functions* of Public International Law (Franciskovic, 2019), the following are identified: *(a) Determining the competences of States*, given that each State has a limited sphere of action,

beyond which it lacks legitimacy to act, except in exceptional cases. *(b) Establishing the negative and positive obligations of States*—that is, regarding the former, duties of abstention, and regarding the latter, duties of cooperation, mutual assistance, and others imposed on States when exercising their competences. In other words, discretionary authority is replaced by a limited one. *(c) Regulating the competences of international organizations.*

International Organizations from a legal perspective

Prior to identifying international organizations, it is necessary to cite the elements of international law, which include: International conventions, International custom accepted as general practice, Definitive judicial decisions, and Doctrines that help determine the application of laws in a dispute.

Among international judicial bodies, the following are identified: The International Court of Justice (ICJ), the Inter-American Court of Human Rights, end the European Court of Human Rights. Other international justice institutions include: The Court of Justice of the European Union, the International Criminal Court, the African Court on Human and Peoples' Rights. Transnational judicial bodies comprise: The Court of Justice of the European Union, the Court of Justice Cartagena Agreement, the body that resolves preliminary rulings for natural or legal persons who are members of the Andean Community (CAN) regarding commercial activities and tariffs, and the Central American Court of Justice

The *Central American Court of Justice*. The Hague, Netherlands. Principal judicial organ of the United Nations, often referred to as the "World Court", resolves disputes between UN member states, composition: 15 judges elected for 9-year terms, with staggered elections every 3 years. Authorized to issue advisory opinions on legal questions at the request of: The General Assembly, the Security Council and other UN organs.

The International Criminal Court, judicial body that adjudicates war crimes committed in the former Yugoslavia and lacks direct enforcement mechanisms for its decisions

Establishment of institutions such as: United Nations (UN), OAS, European Community and others

International organizations were established to promote cooperation among nations in maintaining peace, security, trade, economic development, and humanitarian assistance. Their primary objectives included: preserving peace and security among nations, fostering economic growth, strengthening international relations, providing member states with financing and technical assistance, creating global public goods, enhancing national efficiency, and regulating state power.

These international organizations feature permanent institutional structures, operate under founding agreements or treaties with their own legal frameworks and principles, respect the domestic laws of member states, yet extend their influence beyond national borders. Their purposes may be political, informational, humanitarian, or of other nature.

Classification of International Organizations

International organizations can be classified according to various criteria: *By Duration:* Permanent and Non-permanent. *By Capacity for Action* (based on the authority granted ***by member***

states): Full-fledged organizations, semi-autonomous organizations and consultative organizations. It should be noted that there are international organizations in which states do not participate (such as NGOs). However, all organizations composed of states are subject to Public International Law, though many possess their own legal personality, while others have autonomous decision-making capacity.

Most Significant International Organizations

United Nations (UN). Established at the end of World War II, it replaced the League of Nations. Its purpose is to serve as a forum for debate among nations, resolving disputes through diplomacy to prevent war. It maintains specialized agencies to promote culture, equality, education, health, etc.

International Labour Organization (ILO). A UN-affiliated agency founded in 1919 that seeks to improve global working conditions by promoting decent workplaces, establishing minimum labor standards, and prohibiting child labor, forced labor, and other abuses.

World Bank (WB). It fosters country development through: Strategic policy advisory services, educational advancement programs, development project loans and financing end targeted development initiatives.

United Nations Educational, Scientific and Cultural Organization (UNESCO), a UN specialized agency founded in 1945 to promote the democratization of knowledge, preserve humanity's heritage, and advance scientific learning.

World Health Organization (WHO), another UN-affiliated global body responsible for combating diseases, improving national health conditions, and promoting preventive healthcare.

World Trade Organization (WTO), an international organization that upholds global trade rules, ensuring fair and equitable commercial relations among producers, consumers, and exporters of goods and services.

International Monetary Fund (IMF), a financial institution providing economic guardianship to developing nations through monetary loans and public policy recommendations.

Organization of American States (OAS), a regional organization with diplomatic and financial capacity to address member states' compliance with human rights and democratic principles.

In Community Law systems: European Union (EU), Andean Community of Nations (CAN).

Other notable international organizations include: International Telecommunication Union (ITU), Universal Postal Union (UPU) and Inter-American Development Bank (IDB)

Global Conflicts

Currently, the world faces wars, insurgencies, ethnic conflicts, mass migration, and transnational organized crime.

Major Ongoing Conflicts: Russia-Ukraine War – Threatens European security. *Sudan Crisis – Mas-*

sive refugee displacement. Gaza Conflict – Arab-Israeli tensions. Prolonged Conflicts – Ethiopia, Afghanistan, Syria. Insurgencies – Pakistan, Myanmar. *Ethnic Conflicts* – Great Lakes region of Africa. *Other Critical Conflicts:* Israel-Palestine, Iran vs. U.S. and Israel, Haiti crisis, U.S.-Mexico border tensions, Korean Peninsula (North-S Korea), Democratic Republic of Congo and Colombia. These conflicts result in mass displacement, widespread suffering, and death.

Within this framework, the notions of the contemporary International System (IS) and International Law (IL) constitute two ideal types or conceptual organizers of complex international reality. They compile and correlate vast amounts of specific data to construct two models or archetypes that help us better understand certain aspects of this reality (Farinas, 1989). Thus, the contemporary IS represents a logical ideal type defined primarily by material traits, while contemporary IL serves as a normative ideal type characterized by relations of coexistence and cooperation within a universal system.

However, the current global landscape cannot ignore the challenges posed by the trade war initiated by the United States of America and its restrictive immigration policies. This includes the imposition of increased tariffs on all nations—subject to potential revision through bilateral trade agreements—which has triggered retaliatory tariff hikes worldwide. These measures have also influenced migrant deportations, effectively establishing dual border controls: one for imports and another for migrants. This reflects an attempt to impose order under the prevailing policies of the U.S. government.

Along these same lines, it should be noted that both the Statute of the ICJ and the body of jurisprudence from this institution adhere to the same consensual spirit that reflects the notion of international practice. This approach assumes a consensus-based interpretation when recognizing the applicable rules of international law (IL) relevant to the subject matter of a dispute and determining their normative content.

Conclusions

At this point, it should be noted that international law represents an essential normative framework that regulates relations between States and other international actors on the global stage. Through a set of rules agreed upon by States, incorporating principles and procedures, these conventions address diverse issues such as human rights, international trade regulation, and environmental preservation.

International law is consensual in nature, responding to the need for cooperation and dialogue among nations to address challenges and conflicts while maintaining peace. It requires States to respect established norms and principles, as enshrined in international law, with the aim of promoting peace, security, and societal development.

Both in the International System and in International Law, guiding principles include consent or voluntariness in the creation and application of norms. This does not preclude the imposition of jurisdictional limits, such as the principles of neutrality and non-intervention, as well as the absence of normative hierarchy. Nevertheless, the primacy of international law is evident when incorporated into domestic law through constitutional provisions, which also dictate the rigor

of its interpretation.

From the interpretation of norms in this field, it is concluded that this approach traces back to the understanding of problems in natural law. Later, in the modern State, interpretation was based on the governance of the legal rights and duties of States. Today, it is grounded in a legal system of principles and rules, characterized by the absence of a legislative body, compulsory jurisdiction, and an enforcement mechanism.

Ultimately, the existence of international organizations has not guaranteed the objectives of peace or cooperation among States. On the contrary, there is clear evidence of the influence of the most powerful States over those with lesser or no power. Nor have judicial tribunals succeeded in ensuring that their decisions are enforced in accordance with the purpose of the system.

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